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DEPARTMENT OF COMMERCE

International Trade Administration

[A-455-805]

Emulsion Styrene-Butadiene Rubber from Poland: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that emulsion styrene-butadiene rubber (ESB rubber) from Poland is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2015, through June 30, 2016.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on August 19, 2016.¹ The Department postponed the preliminary determination of

¹ See *Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Initiation of Less Than Fair Value Investigations*, 81 FR 55438 (August 19, 2016) (*Initiation Notice*).

this investigation until February 16, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The product covered by this investigation is ESB rubber from Poland. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice*. The Department is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

² *See Emulsion Styrene-Butadiene Rubber from Brazil, the Republic of Korea, Mexico, and Poland: Postponement of Preliminary Determination of Sales at Less Than Fair Value Investigations*, 81 FR 85208 (November 25, 2016).

³ *See* Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Decision Memorandum for the Preliminary Determination in the Less Than Fair Value Investigation of Emulsion Styrene-Butadiene Rubber from Poland" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁵ *See Initiation Notice*.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, the Department shall determine an estimated all-others rate for all exporters and producers not individually investigated, which shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

The Department calculated a company-specific rate for Synthos Dwory (Synthos) that is not zero, *de minimis* or determined entirely under section 776 of the Act. Therefore, for purposes of determining the “all-others” rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for Synthos as the estimated weighted-average dumping margin assigned to all other producers and exporters of the merchandise under consideration.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/Producer	Weighted-Average Margins (percent)
Synthos Dwory	25.43
All-Others	25.43

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, as discussed below. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁶ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by

⁶ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

the petitioners. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On February 3, 2017, pursuant to 19 CFR 351.210(e), Synthos requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.⁷ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we are notifying the International Trade Commission (ITC) of our preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

⁷ See Letter to the Secretary of Commerce from Synthos, entitled, "Emulsion Styrene-Butadiene Rubber from Poland: Request to Extend the Final Determination," dated February 3, 2017.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

February 16, 2017

Date

Appendix I

Scope of the Investigation

For purposes of this investigation, the product covered is cold-polymerized emulsion styrene-butadiene rubber (ESB rubber). The scope of the investigation includes, but is not limited to, ESB rubber in primary forms, bales, granules, crumbs, pellets, powders, plates, sheets, strip, *etc.* ESB rubber consists of non-pigmented rubbers and oil-extended non-pigmented rubbers, both of which contain at least one percent of organic acids from the emulsion polymerization process.

ESB rubber is produced and sold in accordance with a generally accepted set of product specifications issued by the International Institute of Synthetic Rubber Producers (IISRP). The scope of the investigation covers grades of ESB rubber included in the IISRP 1500 and 1700 series of synthetic rubbers. The 1500 grades are light in color and are often described as “Clear” or “White Rubber.” The 1700 grades are oil-extended and thus darker in color, and are often called “Brown Rubber.”

Specifically excluded from the scope of this investigation are products which are manufactured by blending ESB rubber with other polymers, high styrene resin master batch, carbon black master batch (*i.e.*, IISRP 1600 series and 1800 series) and latex (an intermediate product).

The products subject to this investigation are currently classifiable under subheadings 4002.19.0015 and 4002.19.0019 of the Harmonized Tariff Schedule of the United States (HTSUS). ESB rubber is described by Chemical Abstract Services (CAS) Registry No. 9003-55-8. This CAS number also refers to other types of styrene butadiene rubber. Although the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Scope Comments
- V. Discussion of the Methodology
 - A. Determination of the Comparison Method
 - B. Results of the Differential Pricing Analysis
- VI. Date of Sale
- VII. Product Comparisons
- VIII. Export Price
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 - C. Cost of Production (COP) Analysis
 - 1. Calculation of COP
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 - D. Calculation of NV Based on Comparison-Market Prices
- X. Currency Conversion
- XI. Conclusion